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THE SITUATION IN CENTRAL AMERICA: PROCEDURES FOR THE ESTABLISHMENT OF A FIRM AND LASTING PEACE AND PROGRESS IN FASHIONING A REGION OF PEACE, FREEDOM, DEMOCRACY AND DEVELOPMENT

United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala

Report of the Secretary-General

1. The present report is submitted pursuant to General Assembly resolution 51/198 of 17 December 1996, by which the Assembly decided to authorize the renewal of the mandate of the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala (MINUGUA) for a further period of three months, that is, until 31 March 1997, and requested me to submit recommendations on how the structure and staffing of the Mission should be redesigned to enable the Mission to fulfil its new responsibilities after the signing of the Agreement on a Firm and Lasting Peace.

I. INTRODUCTION

2. As I have reported to the General Assembly and the Security Council, the month of December 1996 saw the culmination of the negotiating process between the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (URNG) which put an end to 36 years of armed confrontation. During the first half of the month, three important agreements, namely, the Agreement on a Definitive Ceasefire (S/1996/1045, annex), the Agreement on Constitutional Reforms and the Electoral Regime and the Agreement on the Basis for the Legal Integration of URNG (A/51/776-S/1997/51, annexes I and II), were signed in Oslo, Stockholm and Madrid, respectively. The negotiations, which began under United Nations auspices in January 1994, were brought to a successful conclusion in

Guatemala City on 29 December 1996, with the signing of the Agreement on the Implementation, Compliance and Verification Timetable for the Peace Agreements and the Agreement on a Firm and Lasting Peace (A/51/796-S/1997/114, annexes I and II). The latter, which brought into effect all the agreements reached between the parties since 1994, was signed at a formal ceremony at the National Palace attended by President Alvaro Arzú, by the Heads of State and representatives of numerous Member States and by my predecessor, Mr. Boutros Boutros-Ghali, who signed the Agreement on behalf of the United Nations.

3. The agreements signed by the parties since 1994, referred to in the previous paragraph, are as follows:

Framework Agreement on the Resumption of the Negotiating Process (A/49/61-S/1994/53, annex)

Comprehensive Agreement on Human Rights (A/48/928-S/1994/448, annex I)

Agreement on a Timetable for the Negotiation of a Firm and Lasting Peace (A/48/928-S/1994/448, annex II)

Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict (A/48/954-S/1994/751, annex I)

Agreement on the Establishment of a Commission to Clarify Past Human Rights Violations and Acts of Violence that have Caused the Guatemalan Population to Suffer (A/48/954-S/1994/751, annex II)

Agreement on the Identity and Rights of Indigenous Peoples (A/49/882-S/1995/256, annex)

Agreement on Social and Economic Aspects and the Agrarian Situation (A/50/956, annex)

Agreement on the Strengthening of Civilian Power and on the Role of the Armed Forces in a Democratic Society (A/51/410-S/1996/853, annex)

Agreement on a Definitive Ceasefire (S/1996/1045, annex)

Agreement on Constitutional Reforms and the Electoral Regime (A/51/776-S/1997/51, annex I)

Agreement on the Basis for the Legal Integration of URNG (A/51/776-S/1997/51, annex II)

Agreement on the Implementation, Compliance and Verification Timetable for the Peace Agreement (A/51/796-S/1997/114, annex I)

Agreement on a Firm and Lasting Peace (A/51/796-S/1997/114, annex II)

4. On 15 January 1997, the Guatemalan Congress issued a statement expressing satisfaction at this accomplishment and its appreciation to the United Nations and the Group of Friends of the Peace Process (Colombia, Mexico, Norway, Spain, United States of America and Venezuela) for their unconditional support to Guatemala throughout the process. The Congress also called upon the two parties to comply with their commitments within the established time-frame and firmly pledged to take all the legislative steps contemplated in the agreements in order to consolidate peace. The support of the Congress for the peace process was echoed by a very broad spectrum of Guatemalan society.

5. The international community expressed satisfaction at the long-awaited attainment of peace. In the wake of the signing of the peace agreements, bilateral donors and cooperating agencies demonstrated their support at a Consultative Group Meeting held in Brussels on 21 and 22 January 1997 under the coordination of the Inter-American Development Bank.[1] The meeting concluded with the international donor community pledging aid totalling some $1.9 billion for project-related activities from 1997 to 2000. Especially highlighted by the participants was the need to strengthen Guatemala's democratic institutions and the rule of law, to improve the efficiency of public services, and to accelerate equitable economic growth and social development. Also stressed was the need to pay attention to the multi-ethnic, multicultural and multilingual composition of Guatemala and to ensure that the dividends of peace benefit all of society.

6. During the first two months of 1997, several steps were taken with a view to implementing the peace accords. On 20 January, the Security Council authorized for a three-month period the attachment to MINUGUA of a group of 155 military observers and requisite medical personnel to verify the Agreement on a Definitive Ceasefire (S/RES/1094 (1997)). In order to comply with constitutional requirements, the Guatemalan Congress formally endorsed this deployment through decree 14/97 of 11 February 1997. An exchange of letters dated 24 January and 18 February 1997 completed the appropriate supplement to the existing Status of Mission Agreement between the United Nations and the Government of Guatemala. On 13 February 1997, I informed the Security Council that verification of the ceasefire would begin on 3 March 1997, by which date the military observer group would be in place with full operational capacity (S/1997/123).

7. Implementation of other provisions in the peace agreements has moved forward in recent weeks. In accordance with section V of the Agreement on the Implementation, Compliance and Verification Timetable (A/51/796-S/1997/114, annex I), the Commission to Follow up the Implementation of the Peace Agreements, mandated to oversee implementation of the agreements, was established on 5 February 1997 and has since held weekly sessions. Its composition reflects the diversity of actors whose support will be needed to keep the peace process on track in the years ahead. In addition to two representatives from each of the two parties, it comprises four citizens from different sectors, a representative from Congress and the head of the United Nations Verification Mission.

8. Steps have also been taken to establish another essential component of the peace process, namely, the Historical Clarification Commission provided for in the corresponding Agreement (A/48/954-S/1994/751, annex II). Having consulted

the parties, I appointed Mr. Christian Tomuschat, who was the Independent Expert on Guatemala of the Commission on Human Rights from 1990 to 1993, as the international member of the Commission; the names of the two Guatemalan Commissioners, Ms. Otilia Lux García de Coti and Mr. Edgar Balsells Tojo, were announced on 22 February 1997. Preparatory work regarding financing, logistics and procedures is under way.

9. On 31 January 1997, I informed the Presidents of the General Assembly and the Security Council that I had decided to appoint Mr. Jean Arnault, who had been the United Nations Observer to the peace process since June 1992 and Moderator of the negotiations since January 1994, as my Special Representative and Head of MINUGUA (A/51/794-S/1997/106). His appointment was made effective on 1 March 1997, on which date, Mr. David Stephen, who had headed the Mission with great distinction since 1 June 1996, completed his assignment. In the same letter, I also mentioned that I intended to propose that, while retaining its current acronym (MINUGUA), the Mission's name be changed to United Nations Verification Mission in Guatemala as from 1 April 1997 in order to reflect its new mandate.

II. NEW VERIFICATION ACTIVITIES TO BE UNDERTAKEN BY THE MISSION

10. The package of agreements listed in paragraph 3 above is a blueprint for peace, reconciliation and development. It encompasses detailed commitments on political, legislative, social, economic, agrarian, ethnic, military and public security issues which have been bound together into a comprehensive national agenda. The Agreement on the Implementation, Compliance and Verification Timetable for the Peace Agreements is a detailed guide for the implementation of those commitments. It sets out a calendar for their implementation from 1997 to the end of 2000 in three separate phases: the first, of 90 days (to 15 April 1997) provides, inter alia, for the establishment of several joint commissions relating to: the demobilization and integration of URNG members; reform of the justice and electoral systems; indigenous rights and modernization of the legislative branch; the second phase, which covers the remainder of 1997, places emphasis on social and productive investment, modernization and decentralization of the State, public administration reform, rural development, fiscal reform and the restructuring of public security and national defence; the third phase covers further development of the above measures, implementation of the recommendations of the various joint commissions and promotion of broad legislative reform on issues such as the penal code, the administration of justice, land tenure and the multi-ethnic, multicultural and multilingual nature of Guatemala.

11. Consistent with the request of the parties in the Framework Agreement of January 1994 (A/49/61-S/1994/53, annex) and similar requests made by the parties in all agreements signed since then, section VI of the Agreement on the Implementation, Compliance and Verification Timetable stresses that international verification is essential to achieve greater certainty in the implementation process and to strengthen confidence in the consolidation of peace. The parties thus request the Secretary-General of the United Nations to set up a mission to verify all the agreements signed between them. They further ask that the present MINUGUA, with its human rights verification mandate, become

a component of the new Mission whose functions shall comprise verification, good offices, advisory services and public information. The Mission will be authorized to move and settle freely throughout the country, interview any person or entity freely and privately and obtain relevant information. It shall have such international and national officials and experts as are appropriate and it may obtain assistance and cooperation from international organizations whose mandate is relevant to the matters covered by the peace agreements. The parties request that the duration of the Mission's mandate be the same as that of the Implementation, Compliance and Verification Timetable, namely, four years, from 1997 to 2000.

III. REVISED STRUCTURE AND STAFFING OF THE MISSION

12. The mandate of MINUGUA has heretofore been limited to verifying the Comprehensive Agreement on Human Rights (A/48/928-S/1994/448, annex I) and the human rights aspects of the Agreement on the Identity and Rights of Indigenous Peoples (A/49/882-S/1995/256, annex). In addition, the Mission has carried out relevant institution-building activities. MINUGUA's structure and staffing have reflected these tasks. The peace agreements impose increased responsibilities on the Mission, which will therefore require a much broader range of expertise.

13. In approaching the restructuring of MINUGUA, every effort has been made to enable the Mission to carry out broader verification tasks without a corresponding increase in resources. This policy includes: (a) identifying current Mission members with expertise in the new areas covered by the agreements; (b) providing specific training to remaining staff to enable them to fulfil the new mandate; (c) obtaining cooperation from United Nations agencies with experience in areas covered by the agreements; (d) further using United Nations Volunteers at Mission headquarters; as well as (e) recruiting Guatemalan Professional and General Service staff, where appropriate. This policy will be implemented on a continuing basis with a view to enhancing the Mission's efficiency over the duration of its mandate.

14. The recommendations on staffing set out below are tailored to the requirements of the Implementation, Compliance and Verification Timetable.

Office of the Chief of Mission

15. The Chief of Mission will be assisted by four Professionals and the necessary support staff. A Senior Police Observer and a Senior Military Liaison Officer will continue to be attached to his Office.

Field Coordinator

16. The Field Coordinator will bear full responsibility for coordinating the work of the regional offices throughout Guatemala, with the assistance of a Junior Professional, a United Nations Volunteer and the necessary support staff.

Verification areas at mission headquarters

17. The entry into force of the peace agreements requires the creation of five separate verification areas, each of which would be headed by a Chief who would report to the Chief of Mission. The areas would be organized as follows:

(a) Human rights. This area will continue to receive, analyse and follow up on complaints of human rights violations and verify compliance with the commitments within the Comprehensive Agreement on Human Rights. Given the sensitive nature of the information handled in this area, all Professional posts within it should be international. It would comprise one Chief, five Professionals, two United Nations Volunteers and the appropriate support staff.

(b) Indigenous affairs. The existing Indigenous Affairs Unit within MINUGUA has, to date, verified only the human rights aspects of the Agreement on the Identity and Rights of Indigenous Peoples. Since the Mission is now required to verify the totality of that Agreement, it is considered that the area would now consist of one Chief, four Professionals, two United Nations Volunteers and the necessary support staff. Every effort will be made to select and recruit indigenous professionals to staff the area.

(c) Social, economic and agrarian. Given the complexity of the Agreement on Social and Economic Aspects and the Agrarian Situation, it is imperative that the Mission obtain assistance from the United Nations agencies and programmes with relevant expertise. The staff required are one Chief, two Professionals, two United Nations Volunteers and the necessary support staff.

(d) Strengthening of civilian power and role of the army in a democratic society. This area will verify issues of public security, military, judiciary, legislative and constitutional reform. Its staffing would comprise one Chief, four Professionals, two military liaison officers, two civilian police observers and the necessary support staff.

(e) Resettlement and integration. This area will verify the commitments in two agreements, namely, the Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict and the Agreement on the Basis for the Legal Integration of URNG. The staffing required will be one Chief, two Professionals, one military liaison officer, one civilian police observer and the necessary support staff.

18. As explained in paragraph 6 above, a military observer group is currently attached to the Mission under the authority of the Security Council for a limited period of three months and under a separate budget, to verify the ceasefire agreement. The structure and staffing of this group is thus not included in this restructuring exercise.

19. The Mission will continue to require military liaison officers and civilian police observers in order to cover the military and police aspects of the agreements and to liaise with their Guatemalan counterparts. It is considered that the number of military liaison officers should remain at its current authorized strength of 17 (including the Senior Military Liaison Officer), while the number of civilian police observers would be reduced to 38 (including the

Senior Police Observer) from its current authorized strength of 53. In the new Mission, these officers will either be assigned to regional verification teams or work in specific verification areas such as those described in paragraphs 17 (d) and (e) above. The highest ranking military and police officer would continue to perform in an advisory capacity to the Chief of Mission.

Administration

20. No increase is believed necessary in the current structure and staffing of the Administration of MINUGUA. The appropriate administrative and logistic needs will be reviewed in the light of the experience of the past two years.

Legal Office

21. The Legal Office should consist of two Professionals and the required support staff.

Spokesman's Office

22. In the light of the need for the Spokesman to devote him/herself full time to contacts with local and international media, this Office should be separated from the Office of Public Information. It would comprise the Spokesman and the necessary support staff.

Office of Public Information

23. The Agreement on the Implementation, Compliance and Verification Timetable for the Peace Accords stipulates that public information should be one of the four cornerstones of the Mission's activities. Thus, the former Office of Public Information should be merged with the former Human Rights Promotion and Education Unit in order to promote information, education and advocacy regarding the commitments within the agreements and the results of verification and implementation. The staff comprise one Chief, three Professionals, one local information officer, one United Nations Volunteer and the necessary support staff.

Technical Assistance

24. No changes are envisaged for this office, which will continue to liaise with intergovernmental and bilateral donors and the non-governmental community. It will be staffed by one Chief, one Professional and the necessary support staff.

Regional offices and sub-offices

25. The members of the preliminary mission which visited Guatemala in 1994 believed that the success of MINUGUA would depend to a large extent on its adequate deployment throughout the country. In this context, they recommended the establishment of eight regional offices and five regional sub-offices. The Mission's experience since then has borne out the importance of the regional office structure, which is perhaps the Mission's greatest asset. These offices

help to build public confidence in the peace process, particularly in the areas that were affected by the armed conflict. In the new phase following the signing of the peace accords, the continued presence of MINUGUA at the regional level will further the goals of national reconciliation and development, which are key factors for the success of the process.

26. It is considered that the structure and staffing of the current regional offices and sub-offices should remain virtually unchanged. Nonetheless, a small permanent presence, at a minimum cost, appears necessary in Poptún (Petén) in order to permit adequate coverage of the department of Petén, which encompasses one third of Guatemala's territory. In addition, in order to achieve parity among the eight regional offices, which bear equal responsibility, it is recommended that the posts of Regional Coordinator all be at the P-4 level and those of the regional Political Affairs Officers all be at the P-3 level.

27. In order for the Mission to fulfil its expanded mandate, it is estimated that 71 positions in the Professional category and above would be required. Related financial requirements inclusive of support staff and operational costs for the period 1 April through 31 December 1997 are estimated at approximately $21 million net. Assuming the same monthly level of expenditures amounting to $2.3 million, the cost for the biennium 1998-1999 is estimated at approximately $56 million.

IV. OBSERVATIONS

28. The Guatemalan peace process has entered a new and challenging phase. Implementation will not be an easy task. It will imply carrying out decisive change in areas where this has proved slow or elusive in the past. It will require sustained political will during the coming years and the maintenance of the sense of urgency that prevailed in the search for a negotiated solution to the armed conflict. Consensus-building between the parties and within society at large has featured prominently so far in the Guatemalan peace process. It should play no less a role in the future if the expectations generated by the peace accords are to be fulfilled. Constant dialogue among the main social, economic and political actors will be necessary in order to move forward effectively on such basic issues as land, taxation, justice, public security, decentralization, local development and multiculturalism.

29. As a verification mission, MINUGUA's primary function is to serve as guarantor of the accords' full implementation. In doing so, however, the Mission also serves another important purpose, namely, to instil the confidence within society at large that will allow for the momentum towards the ambitious goals established by the peace accords to become irreversible. While consolidating peace is primarily the responsibility of the parties and the Guatemalan people, I trust that this sense of confidence in the peace process will make a substantive contribution to national dialogue and reconciliation, to a lasting peace and a stronger democracy.

30. In this context, I recommend that the General Assembly authorize the renewal of the mandate of MINUGUA (now to be known as the United Nations Verification Mission in Guatemala) for a further period of one year, that is

until 31 March 1998, and provide it with the resources referred to in the present report.

Notes

[1] The Consultative Group Meeting was attended by representatives of the Organization of American States and the European Commission. Specialized agencies and organizations present included the World Bank, the International Monetary Fund, the Food and Agriculture Organization of the United Nations, the International Fund for Agricultural Development, the International Organization for Migration and the Pan American Health Organization. Also represented were the United Nations Children's Fund, the United Nations Development Programme, the United Nations Educational, Scientific and Cultural Organization, the Office of the United Nations High Commissioner for Refugees, the Economic Commission for Latin America and the Caribbean, the World Food Programme and other bodies of the United Nations.

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